



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TE/GE – EO Mandatory Review
1100 Commerce Street, MC 4920-DAL
Dallas, TX 75242

Number: **200829035**

Release Date: 7/18/2008

LEGEND

ORG = Organization name XX = Date Address = address

Date: April 9, 2008

UIL:501.03-01

ORG

ADDRESS

Employer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer To:

TE/GE Review Staff

LAST DAY FOR FILING A

PETITION WITH TAX COURT:

July 8, 20XX

CERTIFIED MAIL – Return Receipt Requested

Dear :

This is a Final Adverse Determination revoking your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

ORG has not been operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). You are not a charitable organization within the meaning of Treasury Regulations 1.501(c)(3)-1(d) in that you failed to establish that you were operated exclusively for an exempt purpose. Our examination showed that the entity was organized and operated by a single individual who serves as the sole Officer and Director. In this regard, our examination revealed that you exercised inadequate financial controls of your income, expenditures, and assets to ensure that you operate exclusively for exempt purposes. Moreover, you operated in a manner materially different from your representations on your application for exemption and did not notify the Internal Revenue Service of the material changes in your activities. See Treas. Reg. §601.201(n)(6)(i) and Rev. Proc. 2008-9.

Based upon the above, we are revoking your organization's exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code retroactively to January 1, 20XX.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax return Form 1120. These returns should be filed with the appropriate Internal Revenue Campus for the year ending December 31, 20XX and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax exempt status was determined by calling, faxing or writing to: Internal Revenue Service, Taxpayer Advocates Office.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals process, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
EO Examinations Group 7908
200 Sheffield Street
Mountainside, NJ 07092

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publications 892, 3498
Report of Exam - 886-A

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items – Report of Examination	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG.		20XX-12

LEGEND

ORG = Organization name XX = Date President = president
POA-1 = 1st power of attorney POA-2 = 2nd power of attorney

Issue:

Should the tax exempt status of ORG. be revoked as of January 1, 20XX for exempt purpose and inurnment?

Facts:

ORG. was granted tax-exempt status in March 30, 19XX as a IRC Section 501(c)(3) organization described under IRC 170(b)(1)(A)(ii) as an educational facility. Organization was referred for exam for loan to disqualified person and to conduct a full scope exam for exempt purpose.

Based on review of books and records, organization is operated and organized by a single individual, President. President serves as President, director and officer of the ORG. President has signatory authority over the bank account and deposits all funds and approves all expenses.

Organization was formed under its articles of incorporation to provide education, support and instruction to displaced, unemployed, and underemployed individuals. Organization is currently operating as a pay as you go for instruction service for English as a Second Language Students. Students must pay tuition for instruction that averages about \$ dollars per year. Organization currently provides no charitable services and received no donations in the year under exam.

President, President and director, received funds from the organization as a loan to officer in the amount of \$ for year end December 31, 20XX and \$ for year end December 31, 20XX. President signed no formal loan documents, provided for no repayment of the funds, and was not issued a W-2 for the funds received. The loan to President was not approved by any Board Member or Officer. President stated that he used the funds for personal use.

Law:

Section 501(c)(3) of the Internal Revenue Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation 1.501(c)(3)-1(a)(1) provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Taxpayer's Position:

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items – Report of Examination	Schedule No. or Exhibit
Name of Taxpayer ORG.		Year/Period Ended 20XX-12

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President, President of ORG., POA-1 and return preparer and, POA-2 and attorney, agrees with Service Position to revoke exempt status and provide Form 1120, US Corporate Tax Return for years end December 31, 20XX, December 31, 20XX and December 31, 20XX.

Governments Position:

ORG. activities are not consistent with their exempt status under Section 501(c)(3) of the Internal Revenue Code. Since the organization does not meet the requirements of Treasury Regulation 1.501(c)(3)-1, it is our position that their tax exempt status be revoked.

Conclusion

The tax exempt status of ORG. under Section 501(c)(3) of the Internal Revenue Code should be revoked because the organization is not being operated and organized for its exempt purpose for which it was formed.

The effective date of revocation is January 1, 20XX the first day of the tax year under examination.